

Notice of Allowability

Application No.

09/734,637

Examiner

Daniel S. Metzmaier

Applicant(s)

VOLGAS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After Final Amendment filed 3/18/2005 and Interview of 4/6/2005.
2. ☒ The allowed claim(s) is/are 42-45, 52-54, 56-60, 67-69 and 74.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 8/28/02 & 4/6/05 (8/28/02 = #5)
7. ☒ Examiner's Amendment/Comment (copy)
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on April 6, 2005, Richard M. Beck requested an extension of time for one(1) MONTH and authorized the Director to charge Deposit Account No. 03-2775 the required fee of \$120 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

The amendments to the specification begin on page 3 of this examiner's amendment. Insert the following paragraph.

The amendments to the claims begin on page 4 of this examiner's amendment. Replace all previous versions of the claims with the claims with the list beginning on page 4 of this examiner's amendment.

Amendment to the Specification

Insert the following paragraph beginning after page 8, line 10 and before line 11.

The homogeneous liquid compositions may further have less than 10% water.

End of amendment to the specification.

Claim amendments

1-41. (Cancelled).

42. (Currently amended) An oil based homogenous liquid concentrate
agricultural composition comprising

(a) at least one oil, and

(b) a natural gum

with the proviso that there is no added water present and less than 10% by weight water in the composition and said oil is present in the composition in an amount greater than said water and said composition is combined with a pesticide.

43. (Previously presented) The composition as claimed in claim 42, wherein said natural gum is a non-derivatized guar gum, cationic guar gum, non-cationic guar gum or mixtures thereof

44. (Previously presented) The composition as claimed in claim 43, wherein said oil is mineral oil or paraffinic petroleum.

45. (Previously presented) The composition as claimed in claim 44, which further comprises an oil thickener which is silicon based.

46-51. (Cancelled).

52. (Currently amended) A homogenous liquid composition comprising

a) at least one oil and

b) a natural gum is a non-derivatized guar gum, cationic guar gum, non-cationic guar gum or mixtures thereof and

with the proviso that there is less than 10% by weight water present in the composition and the liquid composition is combined with a pesticide.

53. (Previously presented) The composition as claimed in claim 52, wherein said oil is mineral oil or paraffinic petroleum.

54. (Previously presented) The composition as claimed in claim 52, which further comprises an oil thickener which is silicon based.

55. (Cancelled).

56. (Currently amended) A homogenous liquid agricultural composition comprising

- a) at least one oil, and
- b) a natural gum

with the proviso that there is less than 10% by weight water present in the composition and said oil is an alkylated fatty acid ester, hydrocarbon oil, alkylated natural oil, fatty acid, polybutene or epoxified seed oil, and said composition is combined with a pesticide.

57. (Previously presented) The composition as claimed in claim 56 wherein said oil is methylated C6-19 fatty acids, methylated tall oil fatty acids, methylated oleic acid, methylated linoleic acid, methylated linolenic acid, methylated stearic acid, methylated palmitic acid, blends of the methylated acids, ethylated C6-19 fatty acids, ethylated tall oil fatty acids, ethylated oleic acid, ethylated linoleic acid, ethylated linolenic acid, ethylated stearic acid, ethylated palmitic acid, blends of the ethylated acid, butylated C6- 19 fatty acids, butylated tall oil fatty acids, butylated oleic acid, butylated linoleic

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acid, butylated linolenic acid, butylated stearic acid, butylated palmitic acid, blends of the butylated acids, fatty acid, polybutene or hydrocarbon oil.

58. (Previously presented) The composition as claimed in claim 57, wherein said natural gum is a non-derivatized guar gum, cationic guar gum, non-cationic guar gum or mixtures thereof.

59. (Previously presented) The composition as claimed in claim 57, wherein said oil is mineral oil or paraffinic petroleum.

60. (Previously presented) The composition as claimed in claim 57, which further comprises an oil thickener which is silicon based.

61-66. (Cancelled).

67. (Previously presented) The composition as claimed in claim 42, wherein said pesticide is a herbicide, an insecticide, a fungicide, a bactericide or a rodenticide.

68. (Previously presented) The composition as claimed in claim 52, wherein said pesticide is a herbicide, an insecticide, a fungicide, a bactericide or a rodenticide.

69. (Previously presented) The composition as claimed in claim 56, wherein said pesticide is a herbicide, an insecticide, a fungicide, a bactericide or a rodenticide.

70-73. (Cancelled).

74. (Previously presented) A method of delivery the benefits of natural gum in liquid oil based compositions which comprises spraying a plant with the composition as claimed in claim 42.

End of amendments to the claims.

Reasons for allowance

2. The following is an examiner's statement of reasons for allowance: attention is directed to paragraphs 7 and 8 of the Office Action mailed December 30, 2004 and the prosecution history. Basis for the amendments may be found at least in original claims 38, 41; page 8, line 21; and examples.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (571) 272-1089. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel S. Metzmaier
Primary Examiner
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DSM